

### **Remarks**

Claims 1, 3, 6-17 and 20-24 are pending in the above-identified application. By way of the present amendment, Applicants have amended claims 1 and 8-11. All amendments made were in response to recommendations from the Examiner, and do not include new matter. No claims have been cancelled, and no new claims have been added. Claims 1, 3, 6-17 and 20-24 therefore remain pending and under examination. Applicants respectfully requests entry of the Amendment and allowance of the pending claims in view of the amendments and the remarks provided herein.

### **Allowable Claims**

Applicants appreciate the Examiner's indication that claims 12-15 and 22-23 are allowable.

### **Claims Objected to**

The Examiner objected to claim 6 as being dependent upon a rejected claim, but indicated it would be allowable if rewritten in independent form. The Examiner further indicated that claims 9-11 were objected to for the informality of lacking appropriate parenthesis.

Applicants thank the Examiner for noting the irregularities in the use of parenthesis in claims 9-11, and have amended claims 9-11 to include the missing parenthesis.

As will be described in more detail below, the claim from which claim 6 depends (*i.e.*, claim 1) should be allowable; therefore, Applicants have not amended claim 6.

### **Claim Rejections under 35 U.S.C. §112, 2nd paragraph**

The Examiner rejected claims 1 and 8 under 35 U.S.C. §112, second paragraph, as being indefinite. More specifically, the Examiner recommended changing "including" to "having" in

claims 1 and 8. Applicants have amended claims 1 and 8 to recite “having” as recommended by the Examiner.

The Examiner also recommended amending the minimum number of carbon atoms in claim 8 from 3 to 6 on the basis that the claim was vague and indefinite because an aromatic group is required to have a minimum of 6 carbon atoms. Applicants respectfully traverse the rejection, noting that compounds such as imidazole are aromatic and include only 3 carbon atoms. Nonetheless, Applicants have amended claim 8, but have amended the claim to recite a minimum of 5 carbons rather than 6 to allow the claim to encompass pyridine, which includes only 5 carbon atoms. As an example, compound 40, shown in Figure 7, includes a pyridine for group A in formula I.

Based on the comments and amendments to the claims provided above, Applicants respectfully request that the rejection of claims 1 and 8 under 35 U.S.C. §112, second paragraph, be withdrawn.

#### **Claim Rejections under 35 U.S.C. §102**

Claims 1, 3, 7-8, 16-17, and 20-21 were rejected under 35 U.S.C. §102(a) as being anticipated by Cumming *et al.* (U.S. Publication No. 2003/0091623). Applicants respectfully traverse the rejection. The Examiner has indicated that Cumming *et al.* discloses HDAC inhibitors such as the benzeneacetamide shown in the Chemical Abstracts entry (CA Reg. No. 854779-93-4) provided in the Office Action. However, Applicants review of Publication No. 2003/0148228 (now U.S. Patent No. 7,658,938) reveals that there is no reference to HDAC inhibitors in this patent. Rather, the patent only refers to use of a “pharmaceutically active ingredient,” which does not anticipate Applicants claims.

Applicants believe there has been an error leading to the wrong reference being cited. The abstract shown in the Office Action is significantly different from that provided with the actual patent publication, which does not recite the use of HDAC inhibitors. Applicants have

located a later application by Cummings *et al.* (U.S. Patent Publication No. 2007/0148228) which does recite HDAC inhibitors (see abstract and paragraph [0040] of 2007/0148228). This application is a continuation-in-part application of Publication No. 2003/0091623, which was cited by the Examiner. However, this later application has a filing date of June 9, 2006. Applicants, on the other hand, have a priority date of December 2, 2003. Because the information regarding HDAC inhibitors was not present until the continuation-in-part application was filed in 2006, the material regarding HDAC inhibitors in Patent Publication No. 2007/0148228 cannot claim priority to the parent application's filing date, and cannot be used to make a rejection of the claims of the current application under 102(a) because it was not published before Applicants' priority date. Applicants therefore respectfully request that the rejection of claims 1,3, 7-8, 16-17 and 20-21 as being anticipated by Cumming *et al.* be withdrawn.

#### **Claim Rejections under 35 U.S.C. §102/103**

Claims 21 and 24 were rejected under 35 U.S.C. §102(a) as anticipated by, or in the alternative, under 35 U.S.C. §103(a) as obvious over Cumming *et al.* (U.S. Patent Publication No. 2003/0091623). Applicants respectfully traverse the rejections. For the reasons provided above, Cumming *et al.* 2003/0091623 does not disclose HDAC inhibitors, and Cumming *et al.* 2007/0148228 has too late a priority date (with regard to HDAC inhibitors) to be used to reject the claims under either 35 U.S.C. §102(a) or 35 U.S.C. §103(a). Accordingly, Applicants respectfully request that the rejection of claims 21 and 24 be withdrawn.

The present Amendment raises no new issues and would not entail the need for further search on the part of the Examiner. Entry of the Amendment is within the discretion of the Examiner and is respectfully requested. In view of the amendments and remarks provided herein, Applicants submit that all of claims 1,3, 6-17, and 20-24 are now in condition for allowance. Prompt notice of such allowance is requested. If the Examiner has any questions

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regarding the amendment, he is encouraged to contact the undersigned at the number listed below.

Respectfully submitted,

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